MST

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.7816 OF 2006

Haribhau Raghunath Dumbare, since deceased through LRs & others — Petitioners

versus

Subhashchandra Sawalaram Dumbare and others — Respondents

Mr.P.N.Karlekar for petitioners.

CORAM : A.S.OKA, J.
DATE : 07th February 2007

PC :

1. Heard Shri Karlekar for the petitioners. By this petition under Article 227 of the Constitution of India, the challenge is to the orders passed by the revenue authorities in mutation entry proceedings. The order passed by the Additional Tahasildar was set aside in appeal by the Sub Divisional Officer. The said Officer remanded the case to the Tahasildar for holding an appropriate enquiry. The present petitioners challenged the order of remand by preferring an appeal before the Collector. The said appeal has been dismissed and a revision application preferred by the petitioners against the said

order has been rejected. Thus, the order of remand passed by the Sub Divisional Officer has been confirmed.

2. Learned advocate for the petitioners submitted that there is a decree passed by the Civil Court which conclusively decides the dispute regarding possession and title between the parties in respect of the suit property and therefore, the revenue authorities were bound by the decree passed by the Civil Court.

3. In a petition under Article 227 of the Constitution of India, no interference can be made with an order of remand passed in mutation entry proceedings. However, the authority deciding the case on the basis of order of remand is bound to consider the legal effect of the decree passed by the Civil Court which according to the petitioners has attained finality.

4. Subject observations made above, no case is made out for interference. The petition is rejected.

(A.S.OKA, J.)